



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2022-0862; FRL-10367-01-OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Our Children's Earth Foundation v. U.S. EPA*, No. 22-cv-276-CKK (D.D.C.). On February 2, 2022, Plaintiff Our Children's Earth Foundation filed a complaint in the United States District Court for the District of Columbia, alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to timely respond to numerous state implementation plan (SIP) submissions from the State of New Jersey. EPA is providing notice of this proposed consent decree, which would resolve all claims in the case by establishing deadlines for EPA to take final actions on twelve submissions from New Jersey as specified in the decree.

DATES: Written comments on the proposed consent decree must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0862, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Additional Information about Commenting on

the Proposed Consent Decree” heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Hali Kerr, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 564-2286; email address Kerr.Hali@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2022-0862) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

II. Additional Information about the Proposed Consent Decree

On February 2, 2022, Plaintiff Our Children’s Earth Foundation filed a complaint in the United States District Court for the District of Columbia, alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to timely respond to numerous state implementation plan (SIP) submissions from the State of New Jersey. The proposed consent decree would establish

deadlines for EPA to take action pursuant to CAA section 110(k) on certain SIP revisions by the State of New Jersey.

On July 20, 2009, New Jersey submitted a SIP revision on Diesel I/M, Opacity Cutpoints. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the Diesel I/M, Opacity Cutpoints SIP revision by August 31, 2023.

On October 17, 2014, New Jersey submitted a SIP revision on 2010 SO₂ Transport. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the 2010 SO₂ Transport SIP revision by August 30, 2024.

On December 14, 2017, New Jersey submitted a SIP revision covering PM_{2.5} and Ammonia Emission Statement Reporting, PM_{2.5} in Air Permitting, and Subchapter 8 permitting. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the PM_{2.5} and Ammonia Emission Statement Reporting and PM_{2.5} in Air Permitting SIP revisions by November 30, 2023, and the Subchapter 8 permitting SIP revision by February 28, 2025.

On August 23, 2018, New Jersey submitted a SIP revision covering Resiliency, Air Toxics, and Removal of CAIR and NO_x Budget Programs. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the Resiliency and Air Toxics SIP revisions by November 30, 2023, and on the Removal of CAIR and NO_x Budget Programs by August 30, 2024.

On January 2, 2018, New Jersey submitted a SIP revision on its 2008 Ozone Attainment Demonstration including RFP and its 2008 Ozone Contingency Measures. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, these two SIP revisions by

August 30, 2024.

On May 13, 2019, New Jersey submitted a SIP revision for its 2015 Ozone Infrastructure SIP. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part certain elements of the 2015 Ozone Infrastructure SIP revision by August 30, 2024.

And on March 26, 2020, New Jersey submitted a SIP revision on the Regional Haze Requirements for 2nd Planning Phase. The proposed consent decree would require EPA to take action to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part the Regional Haze Requirements for 2nd Planning Phase SIP revision by November 30, 2023.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information about Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0862, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional

submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

Gautam Srinivasan,
Associate General Counsel.

